

# HOUSE BILL No. 1507

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.

**Synopsis:** IURC enforcement authority. Gives the Indiana utility regulatory commission (IURC) authority to impose specified penalties on a utility that violates Indiana utility law or fails to comply with an order of the commission or a division of the commission. Provides for the deposit of revenue collected through monetary penalties in a regulatory personnel fund for hiring and training of commission regulatory staff. Establishes the regulatory personnel fund and appropriates money in the fund for the hiring and training of commission regulatory staff. Repeals a superseded statute relating to the commission's enforcement powers.

**Effective:** July 1, 2001.

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**Stilwell, Liggett, Fry**

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January 11, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1507

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A BILL FOR AN ACT to amend the Indiana Code concerning utilities and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1-3.5 IS ADDED TO THE INDIANA CODE AS  
2       A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3       1, 2001]:

4       **Chapter 3.5. Commission Enforcement Authority**

5       **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**  
6       **chapter.**

7       **Sec. 2. As used in this chapter, "fund" refers to the regulatory**  
8       **personnel fund established by section 12 of this chapter.**

9       **Sec. 3. As used in this chapter, "order" refers to an order, a**  
10       **decision, a decree, a rule, a direction, a demand, or a requirement**  
11       **of the commission or a division of the commission.**

12       **Sec. 4. As used in this chapter, "public utility" refers to a public**  
13       **utility over which the commission has jurisdiction.**

14       **Sec. 5. If, after notice and hearing, the commission finds that a**  
15       **public utility has:**

16               **(1) violated a provision of this title over which the commission**  
17               **has jurisdiction; or**



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(2) failed to comply with any part of an order;  
the commission may act as provided in section 6 of this chapter.

**Sec. 6.** The commission may issue an order that does one (1) or more of the following if the commission makes a finding under section 5 of this chapter:

(1) Imposes a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation or noncompliance. For purposes of this subdivision, the commission may consider each day a violation or noncompliance occurs to be a separate violation or noncompliance.

(2) Imposes a civil penalty of not more than fifteen percent (15%) of the annual gross intrastate operating revenue of the public utility. A public utility's gross intrastate operating revenue shall be determined from the most recent public utility annual report filed under IC 8-1-6-5.

(3) Requires that the public utility cease and desist from the violation or noncompliance.

(4) Mandates corrective action to alleviate the violation or noncompliance.

(5) Revokes or modifies the terms of the public utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit issued by the commission.

**Sec. 7.** The commission shall consider the following when determining the appropriateness of the amount of a civil penalty or compromise amount:

(1) The size of the public utility.

(2) The gravity of the violation or noncompliance.

(3) The good faith of the public utility in attempting to remedy the violation or achieve compliance after receiving notification of the violation or noncompliance.

**Sec. 8. (a)** The attorney general may bring an action in the name of the state of Indiana to enforce an order of the commission under section 6 of this chapter, including the collection of an unpaid civil penalty imposed by the commission under section 6(1) or 6(2) of this chapter.

**(b)** The attorney general may bring the action under this section in a court that has jurisdiction.

**Sec. 9.** All civil penalties accruing under this chapter are cumulative. A suit for recovery of one (1) civil penalty does not bar or affect:



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- (1) the recovery of any other civil penalty or forfeiture; or
- (2) a criminal prosecution against:
  - (A) a public utility;
  - (B) an officer, a director, an agent, or an employee of a public utility; or
  - (C) any other person.

Sec. 10. The secretary of the commission shall deposit any civil penalties collected under this chapter in the fund.

Sec. 11. The authority granted under this chapter is in addition to, and may be exercised independently of, any other authority granted under this article.

Sec. 12. (a) The regulatory personnel fund is established to provide money for hiring and training commission regulatory staff.

(b) The fund consists of civil penalties imposed and collected (including amounts paid in compromise of a civil penalty) under this chapter.

(c) The fund shall be administered by the secretary of the commission.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is continuously appropriated to hire and train commission regulatory staff.

SECTION 2. IC 8-1-2-115 IS REPEALED [EFFECTIVE JULY 1, 2001].

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